

SEP 26 2007

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

MUR 5911  
RODRIGUEZ FOR CONGRESS

2007 SEP 27 A 11: 14

CASE CLOSURE UNDER THE  
ENFORCEMENT PRIORITY SYSTEM

**SENSITIVE**

**GENERAL COUNSEL'S REPORT**

Under the Enforcement Priority System, matters that are low-rated

are forwarded to the Commission with a recommendation for dismissal. The Commission has determined that pursuing low-rated matters compared to other higher rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss these cases.

The Office of General Counsel scored MUR 5911 as a low-rated matter. In this case, the complainant, B.J. Atkins, the Chairman of the 38<sup>th</sup> Assembly District Republican Central Committee of Newhall, California, alleged that during the 2006 Congressional race the Rodriguez for Congress Committee ("Committee") wrongly asserted eligibility to the increased contribution limits provided under 441a-1 and, thereafter, accepted contributions in excess of the limitations of the Federal Election Campaign Act. Specifically, after noting the amount of each contribution on its disclosure report, the Committee indicated that the "limit increased due to [the] opponent's spending." The complainant also identified seven contributors who gave excessive contributions to the Committee during the election cycle. The total amount of the alleged excessive contributions was \$7,264.

1 The candidate, on behalf of the Committee, responded that the complainant merely  
2 aggregated the numbers for both the primary and the general elections without regard as to  
3 the specific dates of the contributions or their descriptions, as listed on the Committee's  
4 disclosure reports.

5 An examination of the Committee's disclosure reports appear to support its  
6 contention that the contributions identified by the complainant were appropriately designated  
7 between the primary and general elections. Accordingly, in light of the de minimis amount  
8 alleged in violation, and in furtherance of the Commission's priorities and resources, relative  
9 to other matters pending on the Enforcement docket, the Office of General Counsel believes  
10 that the Commission should exercise its prosecutorial discretion and dismiss the matter. *See*  
11 *Heckler v. Chaney*, 470 U.S. 821 (1985).

12 **RECOMMENDATION**

13 The Office of General Counsel recommends that the Commission dismiss  
14 MUR 5911, close the file effective two weeks from the date of the Commission vote, and  
15 approve the appropriate letters. Closing the case as of this date will allow CELA and  
16 General Law and Advice the necessary time to prepare the closing letters and the case file for  
17 the public record.

28044183616

Thomasenia P. Duncan  
General Counsel

9/20/07  
Date

BY:

Gregory R. Baker  
Special Counsel  
Complaints Examination  
& Legal Administration

Jeff S. Jordan  
Supervisory Attorney  
Complaints Examination  
& Legal Administration

Attachment:  
Narrative in MUR 5911

28044183617

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3  
4 **MUR 5911**

5  
6 **Complainant:** B.J. Atkins, Chairman of the 38<sup>th</sup> Assembly District Republican  
7 Central Committee

8  
9 **Respondents:** Rodriguez for Congress and  
10 Noerena Limon, as Treasurer  
11

12  
13 **Allegations:** The complainant, B.J. Atkins, alleged that during the 2006 Congressional  
14 race the Rodriguez for Congress Committee ("Committee") wrongly asserted eligibility  
15 to the increased contribution limits provided under the millionaire's amendment and,  
16 thereafter, accepted contributions in excess of the limitations. Specifically, after noting  
17 the amount of each contribution on its disclosure report the Committee indicated that the  
18 "limit increased due to [the] opponent's spending." The complainant also identified  
19 seven contributors who gave excessive contributions to the Committee during the  
20 election cycle. The total amount of the alleged excessive contributions was \$7,264.  
21

22 **Response:** On behalf of the Committee the candidate responded that the complainant  
23 merely aggregated the numbers for both the primary and the general elections without  
24 regard as to the specific dates of the contributions or their descriptions, as listed on the  
25 Committee's disclosure reports. The candidate did not address the issue as to why the  
26 Committee noted that it was accepting contributions at increased limits "due to  
27 opponent's spending."  
28

29 **General Counsel's Note:** The Committee was permitted to terminate on May 1, 2007,  
30 which was seven calendar days after the complaint was filed. Additionally, an  
31 examination of the Committee's disclosure reports appear to support its contention that  
32 the contributions identified by the complainant were appropriately designated by the  
33 Committee between the primary and general elections, notwithstanding the notation on  
34 the disclosure reports that the Committee was accepting contributions at "increased  
35 limits."  
36

37 **Date complaint filed:** April 23, 2007  
38

39 **Response filed:** September 20, 2007 [This Office spent several weeks contacting various  
40 family members of the candidate in order to obtain a response, which was recently filed  
41 via e-mail on September 20, 2007].

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